

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

ROY HORTON,

Plaintiff,

vs.

CIVIL ACTION NO. 1:09CV114

**LT. WESLEY DOBBS, Marion Co.
Sheriff's Dept.; OFFICER BENSON,
Transportation Officer, Marion Co.
Sheriff's Dept.; OFFICER B. KIMBALL,
Booking Officer, North Central Regional Jail;
GEORGE TRENT, Administrator,
North Central Regional Jail; JOHN L. KING, II,
Chief of Operations, West Virginia Regional Jail Authority,**

Defendants.

ORDER/OPINION

On August 4, 2009, Plaintiff, *pro se*, Roy Horton filed his Complaint in this Court [DE 2].

On September 10, 2009, Defendants Kimball and Trent filed Answers to the Complaint [DE 16]. On September 14, Defendants Benson and Dobbs filed Answers to the Complaint [DE 17, 18]. On July 12, 2010, Plaintiff filed a "Motion to Join Additional Party" [DE 55]. In his Motion Plaintiff sought to join John L. King II as a defendant "in Plaintiff's Fifth Cause of Action" in this civil action.

In Plaintiff's original Complaint, although King is not named as a defendant, he is clearly identified in Count Five, headed "The Conspiracy." In that Count, the only count Plaintiff moves to amend by joining King, he alleges:

In furtherance of said conspiracy and to affect the object thereof . . .

11). On September 22, 2008, John King II, advised Plaintiff that the false and fraudulent Commitment and Release form signed by [Defendant] Mr. Dobbs required them to hold Plaintiff in their custody until they receive court orders releasing Plaintiff from their custody or

sentencing Plaintiff. Mr. King knew or reasonably should have known that Plaintiff was imprisoned without lawful process and Plaintiff had not appeared before a magistrate for an initial appearance.

Plaintiff's Motion to join John L. King, II, in Count Five of this suit was granted in an Order dated August 5, 2010 [Docket Entry 64]. Plaintiff filed his Amended Complaint August 13, 2010 [Docket Entry 76]. On August 27, 2010, Plaintiff moved the Court to correct an error in the amended complaint, which motion was granted on August 27, 2010 [Docket Entry 84]. Plaintiff also requested leave of Court to supplement the Record, which was granted on August 27, 2010 [Docket Entry 2010].

This matter having been referred to the undersigned United States Magistrate Judge on October 30, 2009, the undersigned was not aware until this date that Plaintiff had been granted IFP status by the District Judge on August 11, 2009.

Pursuant to 28 U.S.C. section 1915(d), the Court **ORDERS** the United States Marshal to effect service of process, and **DIRECTS** the Clerk of the Court to obtain the necessary address information for **John L. King, II**, from the plaintiff. The Clerk is further directed to furnish copies of the original Complaint dated August 4, 2009 [Docket Entry 2]; Incorporated Exhibits filed October 7, 2009 [Docket Entry 20]; Amended Complaint filed August 13, 2010 [Docket Entry 76]; Correction to Amended Complaint filed August 27, 2010 [Docket Entry 82]; Attachment 1 to Supplement to the Record filed August 27, 2010 [Docket Entry 83]; and Amended Cover Page filed September 2, 2010 [Docket Entry 88] to the United States Marshal for service on **John L. King, II**. It is so **ORDERED**.

The Clerk of the Court is directed to send a copy of this Order to counsel of record, and to Roy Horton, Plaintiff *pro se* by Certified United States Mail.

DATED: September 16, 2010

John S. Kaull

JOHN S. KAULL

UNITED STATES MAGISTRATE JUDGE